

Action

MEMORANDUM

November 21, 2012

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *Mihill*

SUBJECT: **Action:** Bill 28-12, Personnel – Merit System Review Commission - Amendments

Government Operations and Fiscal Policy Committee recommendation (2-0): enact Bill 28-12.

Bill 28-12, Personnel – Merit System Review Commission - Amendments, sponsored by the Government Operations and Fiscal Policy Committee was introduced on October 16, 2012. A public hearing was held on November 13 and a Government Operations and Fiscal Policy Committee worksession was held on November 19.

Bill 28-12 would eliminate the requirement that the Council appoint the Merit System Review Commission every 4 years. The Council would retain the authority to appoint the Committee as necessary. The first Committee was appointed in 1980 and issued a report in 1981. Every 4 years since 1981, the Council has determined that it was not necessary to appoint the Committee. The requirement for a Committee predates collective bargaining and the Management Leadership Service.

The Council received a letter from Bruce Ervin Wood, Chair of the Merit System Protection Board, supporting Bill 28-12 (©5). As the letter notes, both the Board and the Government Operations and Fiscal Policy Committee would continue to exercise oversight into personnel and merit system issues.

Committee recommendation (2-0, Councilmember Ervin temporarily absent): enact Bill 28-12.

This packet contains:

Bill 28-12

Legislative Request Report

Memo from Merit System Protection Board

Circle #

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Bill No. 28-12
Concerning: Personnel – Merit System
Review Commission – Amendments
Revised: 9/13/2012 Draft No. 1
Introduced: October 16, 2012
Expires: April 16, 2014
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Government Operations and Fiscal Policy Committee

AN ACT to:

- (1) eliminate the requirement that the Council appoint the Merit System Review Commission every 4 years; and
- (2) generally amend the personnel law.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-5

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 33-5 is amended as follows:

33-5. Statement of legislative intent; merit system principles; statement of purpose; merit system review commission; applicability of article.

* * *

(d) *Merit system review commission.*

(i) In addition to the [county council's] County Council's legislative responsibilities [authorized] under [sections] Sections 101 and 401 of the [county charter] County Charter, the Council, as necessary, may appoint [there shall be convened no later than July 1, 1980, and, if determined necessary in each instance by county council resolution, subsequently at intervals of four (4) years,] a [merit system review commission, the functions of which are to] Merit System Review Commission by resolution.

(ii) The Commission's duties are to:

(A) strengthen the system of checks and balances among those officials and agencies of county government having merit system responsibilities; and [to]

(B) examine and recommend legislative or administrative revision to the merit system in keeping with the intent of the [county charter] Charter and this [article] Article and with new developments in the field of public administration and personnel management.

(iii) The [commission shall be an eleven-member body composed of] Commission has 11 members who are appropriately qualified [county citizens] County residents [and established by a resolution of the county council]. The [county executive shall] Executive must appoint [five (5) of the] 5 members [of this

28 commission and the county council shall] and the Council must
 29 appoint the remaining members.

30 (iv) Each [commission shall terminate] Commission terminates after
 31 it [renders to the county council] submits its final report to the
 32 Council.

33 * * *

34 *Approved:*

35 _____
 Roger Berliner, President, County Council Date

36 *Approved:*

37 _____
 Isiah Leggett, County Executive Date

38 *This is a correct copy of Council action.*

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 Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 28-12

Personnel – Merit System Review Commission – Amendments

DESCRIPTION:	Bill 28-12 would eliminate the requirement that the Council appoint the Merit System Review Commission every 4 years
PROBLEM:	The first Committee was appointed in 1980 and issued a report in 1981. Every 4 years since 1981, the Council has determined that it was not necessary to appoint the Committee. The requirement for a Committee predates collective bargaining and the Management Leadership Service.
GOALS AND OBJECTIVES:	To eliminate the requirement that the Council appoint the Committee every 4 years.
COORDINATION:	County Council; Merit System Protection Board
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Amanda Mihill, Legislative Attorney, 240-777-7815
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	N/A



MERIT SYSTEM PROTECTION BOARD

MEMORANDUM

November 13, 2012

TO: Roger Berliner, President
Montgomery County Council

FROM: Bruce Ervin Wood *Bruce Ervin Wood*
Chairperson *by tel*

SUBJECT: Written Testimony in Support of Bill 28-12, Personnel – Merit System Review
Commission – Amendments and Bill 29-12, Merit System Protection Board –
Annual Public Forum – Elimination

The purpose of this memorandum is to indicate the Board's strong support for Bill 28-12, Personnel – Merit System Review Commission – Amendments and Bill 29-12, Merit System Protection Board – Annual Public Forum – Elimination. Below is a discussion of the rationale for our support.

**There Is No Need For A Merit System Review Commission As The County Charter
Already Ensures Ongoing Oversight And Protection Of the Merit System.**

Section 33-5(d) of the County Code required that the County Council convene a Merit System Review Commission no later than July 1, 1980. It also provides that, if determined necessary by the Council, the Council subsequently would appoint a Merit System Review Commission at intervals of four years. The Council convened the first and only Merit System Review Commission in 1980 and the Merit System Review Commission issued a report in 1981.

The County Charter established the merit system for employees of the County Government in 1948. At that time, the predecessor to the Merit System Protection Board (MSPB or Board), the Personnel Board, was established and tasked with protecting the merit system and employee rights guaranteed under the merit system. Today, the MSPB continues this mandate to oversee and protect the merit system and employee's rights. Among the oversight duties of the Board, pursuant to Section 404 of the Charter, is the review of and comment on any proposed changes to the merit system law or regulations, as well as the conducting of special studies on the administration of the merit and retirement pay systems as the Board deems warranted.

The County Council's Government Operations and Fiscal Policy (GO) Committee also exercises continuing oversight into personnel and merit system issues. The Board works closely with the GO Committee on an ongoing basis to strengthen and protect the merit system. Given this strong working relationship between the GO Committee and the Board in ensuring effective

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ongoing oversight and protection of the merit system, there is no need for any additional oversight. This position is supported by the fact that since the first Merit System Review Commission was appointed in 1980 and reported in 1981, the County Council has determined that it was not necessary to appoint another Merit System Review Commission. Therefore, the Board strongly supports the enactment of Bill 28-12.

There Is No Need For An Annual Public Forum

Section 33-7(j) of the County Code establishes the requirement that the Board hold an annual public forum on personnel management in the County Government to examine the implementation of the Charter requirements and the merit system law. While the Board has faithfully met the requirement to hold such a forum each year, it has been the Board's experience that the forum is not well-attended (e.g., for the last two years there were three and five attendees respectively). It is the Board's opinion that the time and resources expended in coordinating the forum each year could be better spent on the ongoing oversight responsibilities of the Board. Therefore, the Board strongly supports Bill 29-12 to eliminate the requirement for an annual public forum.